Kuhn et al. Ser. No.10/074,203 G.A.U. 3616

REMARKS

Amendment of the Abstract

The amendment makes the requested correction. We thank the Examiner for noting the typographical error.

Claims 1-16 - (35 USC 112, second paragraph)

The amendments made above to Claims 1 and 11 are believed fully responsive to the matters of concern expressed in the Official Action. Withdrawal of the rejections is respectfully requested.

Argument re Claims 1 and 11 - (35 USC 102(b))

Claims 1 and 11 were rejected under 35 USC 102(b) as anticipated by Shaw ('625). Our analysis of Shaw that we will be presenting below will traverse the rejections by showing that the Examiner's analysis, although correct in certain respects, relies upon an incorrect inference drawn from the reference.

The Examiner's analysis of Shaw's Figure 14 is correct in observing that the circuit has two switches 116 and 89 in series control of solenoid coil 121. It is also a correct inference that Shaw's vehicle has an ignition switch that can cut out the electrical system.

What is incorrect in the Examiner's analysis, we respectfully submit, is the inference that the D.C. voltage source 115 is cut in and out by the ignition switch. We are confident that the Examiner will agree with us that Shaw does not explicitly state that source 115 is cut in and out by the ignition switch.

As support for our argument, we first direct the Examiner's attention to the sentence that immediately follows the one the Action relies on as support for the ignition switch and that states:

> "It would not be appropriate to load both the front and rear compartments with the lift wheels up." (col. 7, lines 54-55)

That sentence must be considered in the context of the immediately preceding sentence at col. 7, lines 51-54, the sentence relied on in the Official Action for the presence of an ignition switch in Shaw's vehicle:

> "The purpose of the override valve 125 is for situations where turning off the engine ignition cuts out the truck electrical system, which can cause the air springs to deflate and the tag wheels to rise."

Now let's assume just for argument's sake that the Examiner's inference of voltage source 115 being cut in and cut out by the ignition switch is correct. In light of the sentence at Col. 7, lines 54-55, the presence of override valve 125 is rationalized by the possibility that the ignition switch might be off when the two tanks are to be loaded, thereby preventing solenoid coil 121 from being energized because voltage source 115 would be unable to deliver voltage to the circuit. But what would happen if instead of using override valve 125, the ignition switch were left on (a possibility that we are sure the Examiner will agree cannot be excluded)?

Well, float switch 89 will remain open so long as rear tank 22 remains empty, but at some point in loading that

tank, the switch will close. Whether the act of closing float switch 89 will cause solenoid coil 121 to be energized however will depend on the position of switch 116. If switch 116 is set to "auto", then coil 121 will energize immediately upon float switch 89 closing, and that would ostensibly accord validity to the Examiner's analysis.

BUT --- wait just a minute! What about Shaw's statement at Col. 7, lines 45-46, that says that switch 116 is turned off for loading? That can only mean that coil 121 won't be energized as soon as float switch 89 closes, even with the ignition switch on. Now we will concede to the Examiner that the closure of the float switch would enable switch 116 so that upon being turned to "auto", switch 116 would be effective to energize coil 121. That would still allow the Examiner's analysis to remain ostensibly valid, but only if voltage source 115 is indeed cut in and out by the ignition switch.

But if that is how Shaw's circuit is actually configured, what would happen when the driver of the vehicle starts out on a delivery with both tanks loaded, decides to stop along the way, and then turns off the ignition after stopping? Well that would remove the voltage of source 115, and without voltage, solenoid coil 121 would cease to be energized, presumably shutting off the air supply to shuttle valve 130, and hence air springs 100, 101, resulting in the lift axle being raised.

That result, we submit, would be contrary to Shaw's disclosure that leads the reader to plainly understand that the lift axle is necessary to provide underlying support to the vehicle when both tanks are loaded, and perhaps even to

render the vehicle compliant with applicable axle weight laws.

Such being the case, we ask pose this question: Does Shaw unambiguously disclose that voltage source 115 is cut in and out by the ignition switch?

Given the analysis that we have just presented, we respectfully submit that the question must be answered in the negative. In light of our analysis, we feel that it would be virtually certain that Shaw's voltage source 115 is a connection to the battery that does not include the ignition switch. Accordingly, we respectfully submit that the ambiguity that we have pointed out in the reference cannot support rejections under 35 USC 102(b), and we respectfully request withdrawal of the rejections of Claims 1 and 11 on that ground.

Argument re Claims 2 and 12 - (35 USC 102(b))

Claims 2 and 12 were rejected under 35 USC 102(b) as anticipated by Shaw ('625). The rejections are traversed for the reasons given above with respect to Claims 1 and 11 and for the following further reasons.

Contrary to the assertion of the Official Action, Shaw's switch 116 is **not** a relay having a normally open contact that is sealed closed..etc. It is simply a two-position (off and "auto") switch, as schematically portrayed and described. Withdrawal of the rejections of Claims 2 and 12 is respectfully requested.

Argument re Claims 9 and 15 - (35 USC 103(a))

Claims 9 and 15 were rejected under 35 USC 103(a) as unpatentable over Shaw in view of Richardson ('236). The rejections are traversed for the following reasons.

To the extent that the subject matter of Claims 1 and 11 are incorporated in Claims 9 and 15, the rejection is submitted to be without support for reasons given above with respect to Claims 1 and 11. In the context of Claims 1 and 11, the references provide no motivation for the combination, and even if combined, fail to teach the subject matter of Claims 9 and 15.

Withdrawal of the rejections of Claims 9 and 15 is respectfully requested.

Argument re Claims 10 and 16 - (35 USC 103(a))

Claims 10 and 16 were rejected under 35 USC 103(a) as unpatentable over Shaw in view of Richardson. The rejections are traversed for the following reasons.

To the extent that the subject matter of Claims 1 and 11 are incorporated in Claims 10 and 16, the rejection is submitted to be without support for reasons given above with respect to Claims 1 and 11, and in the context of Claims 1 and 11, the references provide no motivation for the combination. Even if combined, the references fail to teach the subject matter of Claims 10 and 16.

Contrary to the assertion of the Official Action, and as pointed out earlier in these remarks, Shaw's switch 116 is not a relay having a normally open contact that is sealed closed..etc. It is simply a two-position (off and "auto") switch, as schematically portrayed and described.

Withdrawal of the rejections of Claims 10 and 16 is respectfully requested.

Conclusion

Please continue to direct correspondence to the attorney of record. However, any questions regarding the

content of this paper should be directed to the undersigned.

Contingent Deposit Account Authorization

Although it is believed that no additional claim fee is due in connection with the filing of this paper, any lawful fee determined by the Commissioner to be due with this Amendment may be charged to Deposit Account No. 14-0603. The fee for the accompanying Petition is authorized in the Petition itself.

Respectfully submitted,

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